

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re K.B., a Person Coming Under
the Juvenile Court Law.

B305176

(Los Angeles County
Super. Ct. No. 18CCJP06044A)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

S.B.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Craig S. Barnes, Judge. Affirmed.

Janette Freeman Cochran, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the County Counsel, Mary C. Wickham, County Counsel, Kim Nemoy, Acting Assistant County Counsel, and Sally Son, Deputy County Counsel, for Plaintiff and Respondent.

S.B. (Mother) appeals the juvenile court's order terminating her parental rights over her infant daughter K.B. We consider whether Mother carried her burden to prove the parent-child relationship exception applied, i.e., to prove she had such a strong parental relationship with her daughter that terminating her parental rights would be detrimental to K.B. We also decide whether K.B.'s paternal grandmother, V.B., was properly considered as a placement option for K.B.

I. BACKGROUND

A. *Initial Referrals, Petition, and Detention Hearing*

K.B. was born in September 2018. Within days, the Department received two calls about her well-being. The first caller reported Mother and K.B. were ready for discharge from the hospital and Mother appeared to be emotionally unstable. Both Mother and K.B. had tested positive for marijuana, but K.B. did not exhibit signs of withdrawal. The second caller reported domestic violence between Mother and K.B.'s father (Father) at a hotel after their discharge from the hospital. A Department social worker was assigned to investigate.

Mother said, in an interview with the social worker, that she has attention deficit hyperactivity disorder and a mood disorder. (The social worker, however, did not observe any signs of mental or emotional issues.) Mother claimed she was not a marijuana user before becoming pregnant but her doctor told her she could use marijuana to treat her morning sickness. Mother also told the social worker that K.B.'s father (Father), physically abused her on three occasions. On the most recent occasion at the hotel, Father tried to pull Mother off a bed, broke a window, and smashed her phone. Both Mother and Father had multiple arrests for domestic violence in recent years.

The Department took temporary custody of K.B. approximately one week after her birth and Mother asked that the Department consider placing K.B. with either of her two

godmothers or a maternal great uncle. Father asked that K.B.'s paternal grandmother, V.B., be considered for placement. A Department social worker left a voice message for V.B. in September 2018.

The Department filed a dependency petition alleging K.B. was subject to the juvenile court's jurisdiction under Welfare and Institutions Code¹ section 300, subdivisions (a) and (b). The five-count petition alleged K.B. was at substantial risk of serious physical harm from domestic violence between Mother and Father, both parents' use of marijuana, and Father's untreated mental and emotional problems.

At an initial dependency hearing, the juvenile court ordered K.B. detained. The juvenile court also directed the Department to provide Mother referrals for weekly random drug testing and to assess all identified relatives for suitability as placement options for K.B.

B. Adjudication and Disposition

The Department submitted its jurisdiction/disposition report two weeks after the detention hearing. With respect to placement, the Department reported it left a voice message for one of K.B.'s godmothers and recommended K.B. not be placed with her maternal great uncle.² There was no new information regarding V.B. Mother visited K.B. three times in the two weeks since the detention hearing.

In a supplemental report, the Department indicated Mother had been discharged from her housing program following an altercation with staff. After her discharge from the program,

¹ Undesignated statutory references that follow are to the Welfare and Institutions Code.

² The maternal great uncle misrepresented his criminal history and the Department learned of allegations that he solicited nude photos from Mother.

Mother lived with Father in a hotel room—in violation of a restraining order.

In a second supplemental report, the Department reported Mother's visits had "not been consistent due to lack of communication with the Department." K.B.'s caregiver told the Department that a friend of Mother's who drove her to a visit called to express concern for K.B.'s safety because Mother "threw things . . . and swore" at the friend. A Department social worker who monitored a visit between Mother and K.B. reported Mother was agitated and raised her voice. When K.B. had to be moved to a new foster home, Mother blamed the Department and accused a social worker of moving K.B. "to get back at [Mother]." Mother also left a voice message indicating she wanted K.B. to be adopted but later ignored the social worker's questions about the voice message.

At the jurisdiction hearing, the juvenile court sustained the dependency petition as pled, declared K.B. a dependent of the court, and ordered K.B. removed from her parents' custody. Mother's case plan required her to submit to ten on-demand drug tests and to participate in a domestic violence support group, parenting classes, and counseling to address past trauma, anger management, and substance abuse.

C. Termination of Family Reunification Services

In a status review report submitted in May 2019, the Department reported K.B. had been placed with three different caregivers "primarily due to issues between [Mother and Father] and caregivers regarding visitation."

Mother was discharged from two substance abuse treatment programs due to behavior issues. She completed a third program in March 2019. Mother had regular visits with K.B. while she was in these programs, but she cancelled two visits and stopped contacting the Department afterward. The next visit between Mother and K.B. did not occur until late June

2019. Mother's appearances for drug testing were also inconsistent.

In a supplemental report filed several weeks before the six-month review hearing, the Department revealed Mother "lost contact" with the Department when she completed her substance abuse treatment program and moved to Victorville. She later returned to Los Angeles and was temporarily staying with a friend. Mother had not visited with K.B. in the two weeks following their visit in June 2019. Father was incarcerated for much of the period between November 2018 and May 2019.

In July 2019, the juvenile court terminated the parents' reunification services, finding their compliance with their case plans had been "minimal." With respect to Mother, the juvenile court found she had "moments of lucidity in which she's interacted and taken the matter somewhat seriously and then her priorities just shift far away from the demands of the case plan and, more importantly, making reunification with her child a priority."³

The Department's reports submitted in advance of the section 366.26 permanency planning hearing in early 2020 stated K.B. was "thriv[ing]" in the care of her prospective adoptive parents. She had developed a "strong attachment" to them and called them "mama" and "papa." Mother had just ten visits with K.B. in the seven months between June 25, 2019, and March 6, 2020. She behaved appropriately with K.B. during these visits (playing music, reading books, feeding K.B., and combing her hair) but Department opined K.B. had a difficult time transitioning to Mother's care and would cry excessively. These

³ A few weeks after terminating reunification services, the juvenile court gave K.B.'s caregivers authority to consent to her enrollment in services at the South Central Regional Center because the Department was unable to reach Mother to obtain her consent.

transitions became more difficult after several consecutive cancelled visits, and by early 2020, K.B. would cry when she was picked up from the caregivers' home.

D. Consideration of Placement with V.B.

At the section 366.26 hearing in February 2020, Father's attorney objected to termination of his parental rights because his mother, V.B., was available to care for K.B. The juvenile court wanted to "take a closer look" at the Department's assessment of V.B. After hearing testimony from V.B., the juvenile court continued the hearing to allow the Department to gather more information and permit a Department social worker to testify.

In advance of the continued hearing date, the Department submitted a report summarizing its communications with V.B. The Department acknowledged the social worker originally assigned to the case was no longer employed by the Department and certain contacts between the social worker and V.B. might not have been recorded.⁴ A dependency investigator recalled, however, that V.B. was initially deemed an unsuitable placement because Mother did not want K.B. placed with V.B. and V.B. had recent criminal history, lacked stable housing, and avoided contact with the Department. The pre-hearing report concluded V.B. remained an unsuitable placement "due to her criminal history (substance abuse, domestic violence), inconsistent contact, housing, and reported ongoing substance abuse."

On the day the juvenile court held the continued section 366.26 hearing, V.B. submitted a section 388 petition asking the juvenile court to change its previous order placing K.B. with non-relative caregivers. V.B. also produced a notebook in which she

⁴ Starting in May 2019, social worker Adilene Paque (Paque) had been assigned to the case and she testified at the continued hearing.

contemporaneously documented her communications with the Department, which the juvenile court admitted into evidence.

V.B. testified a Department social worker first called her in September 2018 and they played “phone tag” until they spoke in November 2018. V.B. told the social worker she was willing to take custody of K.B. but she would “get back to” the social worker “because [she] was in the process of finding permanent housing.” V.B. understood the social worker was going to “mark . . . down that [she] was interested” in taking custody of K.B. and “[take] the information about [V.B.’s] situation.”

V.B. testified her next contact with the Department was in July 2019. When asked about a notebook entry she made in October 2018 that indicated Mother asked her (V.B.) to let Mother and Father “handle this situation,” V.B. explained this was one of the reasons she was not more active in pursuing custody of K.B. Other reasons included her efforts to move out of transitional housing and to reunite with K.B.’s paternal uncle. In a note from March 2019, V.B. indicated minor repairs to her new apartment “need[ed] to be addressed b4 reaching out to [the Department].”

The Department’s reporting indicated a criminal background check on V.B. was done and the results discussed with V.B. in August 2019. V.B. had a 2017 arrest for domestic violence, and she said it stemmed from a relationship she had ended. V.B. also had a 2017 arrest for possession of a controlled substance, and she claimed it occurred as a result of her former partner asking her to hold drugs for him. According to the Department, V.B. admitted she struggled with drug and alcohol addiction for years and had used crack cocaine within the past year. (V.B., during her testimony, disputed this and said she had not used crack cocaine in the last 30 years.) V.B. completed a substance abuse program in February 2019 and maintained she had been sober for five months.

The Department's reporting also addressed Mother's position on placement of K.B. with V.B., V.B.'s living situation, and V.B.'s visitation with K.B. As to Mother's position on placement, she had been "adamant" that K.B. not be placed with V.B. due to substance abuse issues.⁵ As to housing, V.B. had been living in a studio apartment with K.B.'s paternal uncle, and when the Department assessed V.B.'s new two-bedroom home in February 2020, there were no appliances or furniture. (The next month, V.B. expressed frustration that social workers had not reassessed her home.) As for visitation, the Department reported V.B. had monthly monitored visits with K.B. in August 2019, October 2019, November 2019, January 2020, and February 2020.⁶

Social worker Paque and V.B. both testified at the continued section 366.26 hearing about whether the Department would seek a criminal record exemption that would be necessary to place K.B. with her. Paque testified she told V.B. that the Department would not seek the exemption because V.B. was not a suitable placement option. V.B. testified the Department assured her it would seek the exemption.

After the presentation of evidence, the juvenile court found V.B. initially made a "conditional request" for placement in which "she indicated, essentially, . . . if all else fails, consider me." The court further found that V.B. "stepped out of consideration and did not press the issue" because of her uncertain housing

⁵ Mother claimed she saw V.B. smoking methamphetamine in or about June or July 2019. V.B. denied it, and months later, Mother told a social worker she was "mistaken" about having seen V.B. using methamphetamine.

⁶ When V.B. scheduled an extra visit for November 2019, she did not show up and did not call the Department. When the Department arranged for a video visit in March 2020, V.B. did not initiate the visit.

situation and Mother and Father's efforts to reunify with K.B. The court concluded that, "in terms of [section] 361.3," the Department satisfied its placement consideration obligations. The court remarked the Department "may have stumbled initially" when V.B. was equivocating about placement, but then, when V.B. indicated she was prepared to take custody of K.B., the Department appropriately considered the nature of V.B.'s relationship with K.B., her housing situation, her recent criminal history, and the allegations of recent drug use. The court declined to change K.B.'s placement.⁷

Turning to the issue of termination of parental rights, Mother argued the juvenile court should refrain from terminating her parental rights because the parent-child exception applied (§ 366.26, subd. (c)(1)(B)(i)), i.e., she had consistently visited K.B. and occupied a parental role such that terminating her rights would be detrimental to K.B. Counsel for the Department and K.B. contended Mother's visitation was sporadic and asked the juvenile court to terminate Mother and Father's parental rights. The juvenile court found K.B. was likely to be adopted and ordered the parents' rights terminated, finding no exception to the termination of parental rights applied.

II. DISCUSSION

The juvenile court did not err in finding the parent-child relationship exception inapplicable. Although Mother behaved appropriately with K.B. during visits, the visits were too infrequent to establish the necessary parental relationship between Mother and a child who was removed from her custody about a week after she was born. Moreover, K.B. had formed a

⁷ With regard to V.B.'s section 388 petition to change the previous placement order, the juvenile court found it was not in K.B.'s best interest to change her placement when there had been such limited contact between her and V.B.

strong attachment to her prospective adoptive parents and was thriving in their care.

Mother's two placement related contentions are also unavailing. She argues the Department did not give V.B. required written notice of her options to participate in K.B.'s placement, but the point was not raised in the juvenile court and is forfeited. She also argues the Department did not timely assess placement with V.B., but that is contradicted by V.B.'s own testimony that she was not seeking placement of K.B. with her prior to July 2019. The Department properly assessed V.B. for placement after that date, and the juvenile court did not abuse its discretion in determining that V.B.'s housing situation, missed visits, and reported recent drug use made placing K.B. with V.B. inappropriate.

A. *The Parent-Child Relationship Exception Did Not Apply*

1. *Legal framework*

Once a juvenile court finds by clear and convincing evidence that a child is likely to be adopted, "the court shall terminate parental rights and order the child placed for adoption" unless one of several exceptions applies. (§ 366.26, subd. (c)(1).) The parent bears the burden to prove a statutory exception is applicable. (*In re C.F.* (2011) 193 Cal.App.4th 549, 553; *In re Scott B.* (2010) 188 Cal.App.4th 452, 469.)

The statutory exemption at issue in this appeal, the parent-child relationship exception, applies when "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(B)(i).) To come within the exception, a parent must do more than show the child would receive some benefit from continuing a relationship maintained during periods of visitation. (*In re Angel B.* (2002) 97 Cal.App.4th 454, 466 ["To overcome the preference for adoption and avoid termination of the natural

parent's rights, the parent must show that severing the natural parent-child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed"] (*Angel B.*.) Even where parent-child contact has been loving and frequent, a parent must show she occupies "a parental role" in the child's life. (*In re Noah G.* (2016) 247 Cal.App.4th 1292, 1300 (*Noah G.*); accord, *In re K.P.* (2012) 203 Cal.App.4th 614, 621 (*K.P.*).)

We review a trial court's ruling on the applicability of the parent-child exception employing a hybrid standard of review: "We apply the substantial evidence standard of review to the factual issue of the existence of a beneficial parental relationship, and the abuse of discretion standard to the determination of whether there is a compelling reason for finding that termination would be detrimental to the child." (*In re Anthony B.* (2015) 239 Cal.App.4th 389, 395; accord *K.P.*, *supra*, 203 Cal.App.4th at 621-622.) We take into account the age of the child, the portion of the child's life spent in the parent's custody, the positive or negative effect of interaction between the parent and child, and the child's particular needs. (*In re Jason J.* (2009) 175 Cal.App.4th 922, 937-938; *Angel B.*, *supra*, 97 Cal.App.4th at 467.)

2. Application

Substantial evidence supports the juvenile court's determination that the statutorily described parent-child relationship did not exist between Mother and K.B.

The court did not discuss Mother's visitation (or lack thereof) on the record at the section 366.26 hearing. A minute order prepared for the hearing, however, states Mother "maintained regular visitation with the child and has not established a bond with the child." This strikes us as a rather obvious scrivener's error—stating there was regular visitation when the intent was to state, consistent with the record, that

there was not.⁸ We will assume, however, that the minute order means what it says and further assume, for the sake of argument, that Mother’s visitation was sufficient. The juvenile court’s conclusion that the parent-child relationship does not apply is still unassailable.

K.B. was very young (approximately 18 months old) when the juvenile court terminated Mother’s parental rights, and she had been in foster care since the week she was born. Mother visited inconsistently, but even when visits did take place, they lacked the requisite parental character—a point that is underscored by the juvenile court’s decision to grant educational rights to K.B.’s foster parents during the period of the dependency proceedings when Mother was not communicating with the Department. K.B. was also reported to be “thriving” in the care of her prospective adoptive parents—whom she called “mama” and “papa” after being in their care for about a year—and separating from them to visit Mother caused K.B. distress. Under these circumstances, the juvenile court did not err in determining that terminating Mother’s parental rights would not be detrimental to K.B. (See, e.g., *K.P.*, *supra*, 203 Cal.App.4th at 622-623 [“While the weekly two-hour visits between K.P. and his mother may have been pleasant for both parties, there was no evidence in the record (beyond [mother’s] stated belief) that termination of the parent-child relationship would be detrimental to K.P. or that the relationship conferred benefits to K.P. more significant than the permanency and stability offered by adoption”].)

⁸ Mother never progressed beyond monitored visitation. She did not visit K.B. for three months after completing her substance abuse treatment program in March 2019, and, after resuming visits in June 2019, Mother saw K.B. only ten times prior to juvenile court’s termination of her parental rights in March 2020.

B. Placing K.B. with Non-Relative Caregivers Was Not Inconsistent with the Relative Placement Preference

1. Legal framework

Section 361.3 provides that when a child is “removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative” (§ 361.3, subd. (a).) The Department is required to notify certain relatives in writing, within 30 days of a child’s removal from his or her parents, of the child’s removal and the relatives’ options to participate in the care and placement of the child.⁹ (§ 309, subd. (e)(1).)

“Preferential consideration’ means that the relative seeking placement shall be the first placement to be considered and investigated.” (§ 361.3, subd. (c)(1).) In determining whether a relative placement is appropriate, the Department and the juvenile court are required to consider various factors. (§ 361.3, subd. (a).) “The first and foremost of these factors is ‘[t]he best

⁹ The written notice should state “[t]he child has been removed from the custody of his or her parent or parents” and provide “[a]n explanation of the various options to participate in the care and placement of the child and support for the child’s family, including any options that may be lost by failing to respond. The notice shall provide information about providing care for the child while the family receives reunification services with the goal of returning the child to the parent or guardian, how to become a resource family, and additional services and support that are available in out-of-home placements, and, if it is known or there is reason to know the child is an Indian child, the option of obtaining approval for placement through the tribe’s license or approval procedure. The notice shall also include information regarding the Kin-GAP Program . . . , the CalWORKs program for approved relative caregivers . . . , adoption, and adoption assistance . . . , as well as other options for contact with the child, including, but not limited to, visitation. . . .” (§ 309, subd. (e)(1).)

interest of the child, including special physical, psychological, educational, medical, or emotional needs.’ [Citations.]”¹⁰ (*In re Maria Q.* (2018) 28 Cal.App.5th 577, 592 (*Maria Q.*), fn. omitted.) “The statute does ‘not supply an evidentiary presumption that placement with a relative is in the child’s best interests’ but it does require the social services agency and juvenile court to determine whether such a placement is appropriate” based on the relevant factors. (*In re R.T.* (2015) 232 Cal.App.4th 1284, 1295.)

“The relative placement preference under section 361.3 applies throughout the reunification period. [Citation.] In addition, section 361.3 applies after the reunification period where the relative has made a timely request for placement during the reunification period and the child welfare agency has not met its statutory obligations to consider and investigate the relative seeking placement. [Citation.]” (*Maria Q.*, *supra*, 28 Cal.App.5th at 595, fn. omitted.)

2. *Mother’s standing*

The Department contends Mother does not have standing to challenge the juvenile court’s findings and conclusions regarding placement of K.B. with V.B. The Department relies on *In re K.C.* (2011) 52 Cal.4th 231 (*K.C.*), a case in which our Supreme Court held “[a] parent’s appeal from a judgment terminating parental rights confers standing to appeal an order concerning the dependent child’s placement only if the placement

¹⁰ Other factors include the wishes of the parent, relative, and child; the “good moral character” of the relative and any other adult living in the home, including whether any individual residing in the home has a prior history of violent criminal acts or has been responsible for acts of child abuse or neglect; the nature and duration of the relationship between the child and the relative; and the relative’s desire to care for, and to provide legal permanency for, the child if reunification is unsuccessful. (§ 361.3, subd. (a).)

order's reversal advances the parent's argument against terminating parental rights." (*K.C.*, *supra*, at 238.)

Mother challenges the juvenile court's termination of her parental rights. Reversing the juvenile court's order regarding placement of K.B. with V.B. would provide additional ammunition for opposing a parental rights termination order because under section 366.26, subdivision (c)(1)(A), a juvenile court is not required to terminate parental rights as to an adoptable child if the child is "living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment through legal guardianship, and the removal of the child from the custody of his or her relative would be detrimental to the emotional well-being of the child." (§ 366.26, subd. (c)(1)(A).) We therefore reach the merits of Mother's placement argument.

3. *Application*

Mother contends the Department failed to give V.B. written notice of her options to participate in K.B.'s care and placement as required under section 309, subdivision (e)(1), and the juvenile court relied on an incomplete assessment in declining to place K.B. with V.B. As we shall explain, the section 309 argument is forfeited and the argument that the juvenile court relied on an incomplete assessment of V.B.'s suitability as a placement option misconstrues the juvenile court's reasons for declining to place K.B. with V.B.

No party raised the issue of the lack of written notice to V.B. in the juvenile court. Mother's attorney faulted the Department for not assessing whether V.B.'s criminal convictions were an obstacle to placement and for not arranging visitation when V.B. first expressed interest in placement. Father's attorney joined these arguments and expressed disappointment

that everything was “put on [V.B.], what she should have done, what she should have known, when she’s not an expert in dependency law.” There was, however, no mention of section 309, subdivision (e)’s written notice requirement.

“An appellate court ordinarily will not consider challenges based on procedural defects or erroneous rulings where an objection could have been but was not made in the trial court. [Citation.] Dependency cases are not exempt from this forfeiture doctrine. [Citation.]” (*In re Wilford J.* (2005) 131 Cal.App.4th 742, 754.) Mother’s complaint that there is no detail in the appellate record regarding the nature of any oral advisements given to V.B. only underscores the impossibility of assessing whether the alleged error was prejudicial when the issue was not raised and the relevant facts were not developed in the juvenile court.

Mother additionally contends the Department “failed to consider [V.B.] for placement when she came forward,” including by failing to assess her home, not arranging visits between V.B. and K.B. until August 2019, and not investigating whether an exemption could be obtained to place K.B. with V.B. despite her criminal record. V.B. did not unequivocally “come forward,” however, until July 2019. According to her own testimony, she told a social worker in late 2018 she would be interested in caring for K.B. once she found different housing and she would “get back to [the social worker].” In the meantime, K.B. was placed with her prospective adoptive parents in March 2019.

When V.B. followed up with the Department in July 2019, the Department scheduled monthly visits beginning the next month. V.B. did not move out of the studio apartment she shared with her adult son until February 2020, and her new apartment had no appliances or furniture when a Department social worker inspected it. Although the Department never confirmed whether an exemption could be obtained to place K.B. with V.B. in light of her criminal record, the availability of an exemption would not

have made V.B.'s criminal history an improper consideration under section 361.3, subdivision (a). It would only have established V.B.'s criminal history was not a dispositive factor, which the Department already assumed.

The Department's conclusion in February 2020 that V.B. was not a suitable placement reflects a fair consideration of the factors listed in section 361.3, subdivision (a): her criminal history and alleged recent drug use are relevant under subdivisions (a)(5), (a)(7)(A), and (a)(8); her unstable housing situation is relevant under subdivisions (a)(7)(A) and (a)(7)(C); and her "inconsistent contact" with the Department is relevant under subdivision (a)(7)(G). The Department facilitated visitation between V.B. and K.B., investigated her background and present ability to care for K.B., and did not treat any of the factors weighing against her as dispositive. She was not deprived of a fair chance to be K.B.'s caretaker.

Significantly, the juvenile court did not rubber-stamp the Department's conclusion that placement of K.B. with V.B. would be inappropriate. The court ordered the Department to provide additional information concerning its assessment of V.B. and heard testimony from both V.B. and a Department social worker. It reviewed V.B.'s notebook documenting communications with the Department and had her take the witness stand to answer questions concerning the timing of her requests for custody of K.B. and her reasons for not contacting the Department between November 2018 and July 2019. The juvenile court also independently resolved conflicting testimony, finding, for instance, that although V.B. denied recent drug use, "there was enough circumstantial evidence to suggest that this . . . may have been a persistent problem."

Of course, the juvenile court ultimately concluded V.B. was not a suitable placement under section 361.3 based on the nature of her relationship with K.B., her housing situation, recent criminal history, and allegations of recent drug use. The only

factor weighing against this conclusion was the parents' and V.B.'s wishes, and Mother had previously been "adamantly" opposed to placement with V.B. Under these circumstances, we cannot conclude the juvenile court inappropriately deferred to the Department or abused its discretion in considering the section 361.3, subdivision (a) factors. (*In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067 ["the abuse of discretion standard should be applied to the review on appeal of the juvenile court's determination regarding relative placement pursuant to section 361.3"].)

As to V.B.'s related section 388 petition, the juvenile court did not abuse its discretion in concluding that granting the petition was not in K.B.'s best interest. V.B. had only a handful of visits with K.B. and the juvenile court concluded there was not a sufficient bond between them to grant the petition. Mother's view that the lack of visitation between V.B. and K.B. is due to the Department's failure to comply with section 361.3—a premise that we, in any event, have already rejected—does not undermine the juvenile court's determination that changing the placement order was not in K.B.'s best interest.

DISPOSITION

The juvenile court's orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, Acting P. J.

We concur:

MOOR, J.

KIM, J.